

**Federal Rules of Appellate Procedure Form 1. Notice of Appeal to a Court of Appeals
From a Judgment or Order of a District Court.**

United States District Court for the District of
Southern District of New York

File Number 1:20-cv-03178-LJL

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1/13/2021

HC2, INC.

Plaintiff,

v.

ANDREW DELANEY

Defendant.

Notice of Appeal

Notice is hereby given that Andrew Delaney

~~(defendants)~~ ^(plaintiffs) in the above-named case*, hereby appeal to the United States Court of Appeals for
the Second Circuit (from the final judgment) (from an order (describing it) entered in this
action on the 18th day of December, 2020 . *starting not on 12/18/20*

/s/

Andrew Delaney

Attorney for (Pro Se)

Address: 127 West 80th Street

New York, NY 10024

[Note to inmate filers: If you are an inmate confined in an institution and you seek the timing benefit of Fed. R. App. P. 4(c)(1), complete Form 7 (Declaration of Inmate Filing) and file that declaration along with this Notice of Appeal.]

*See Rule 3(c) for permissible ways of identifying appellants

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HC2, INC.

(List the full name(s) of the plaintiff(s)/petitioner(s).)

1:20 CV-03178-LJL()

-against-

ANDREW DELANEY

(List the full name(s) of the defendant(s)/respondent(s).)

**MOTION FOR LEAVE TO
PROCEED IN FORMA
PAUPERIS ON APPEAL**

I move under Federal Rule of Appellate Procedure 24(a)(1) for leave to proceed *in forma pauperis* on appeal. This motion is supported by the attached affidavit.

01/13/2021

Dated



Signature

Delaney, Andrew, J.

Name (Last, First, MI)

127 W. 80th St, New York, NY 10024

Address

City

State

Zip Code

929-262-9601

Telephone Number


jdelaneyandrew@gmail.com

E-mail Address (if available)

Application to Appeal In Forma Pauperis

HC2, INC. _____ v. ANDREW DELANEY _____ Appeal No. _____

District Court or Agency No. _____

<p>Affidavit in Support of Motion</p> <p>I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)</p> <p>Signed:  _____</p>	<p>Instructions</p> <p>Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.</p> <p>Date: <u>January 13, 2021</u></p>
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My issues on appeal are: (required):

- 1) The court erred in not following the Erie Doctrine and the Webb-Weber pleading standard to my NYLL 740 retaliation claim and dismissing my claim
- 2) The court applied the incorrect standard instead of Twombly that my claims must only be "plausible on their face" including as to my confidentiality and abuse of process claims
- 3) No subject-matter jurisdiction (no diversity and under \$75,000 amount in controversy)

1. *For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.*

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	<u>Spouse</u>	You	<u>Spouse</u>
Employment	\$0	\$N/A	\$0	\$N/A
Self-employment	\$0	\$N/A	\$0	\$N/A
Income from real property (such as rental income)	\$0	\$N/A	\$0	\$N/A

Interest and dividends	\$0	\$N/A	\$0	\$N/A
Gifts	\$0	\$N/A	\$0	\$N/A
Alimony	\$0	\$N/A	\$0	\$N/A
Child support	\$0	\$N/A	\$0	\$N/A
Retirement (such as social security, pensions, annuities, insurance)	\$0	\$N/A	\$0	\$N/A
Disability (such as social security, insurance payments)	\$0	\$N/A	\$0	\$N/A
Unemployment payments	\$1072	\$N/A	\$1072	\$N/A
Public-assistance (such as welfare)	\$0	\$N/A	\$0	\$N/A
Other (specify): \$600 per wk for 4/5 - 7/26/2020	\$0	\$N/A	\$0	\$
Total monthly income:	\$1072	\$0	\$1072	\$0

2. *List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)*

Employer	Address	Dates of employment	Gross monthly pay
HC2, Inc.	360 Lexington Ave, NY,NY	09/2019-03/2020	\$12800
			\$
			\$

3. *List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)*

Employer	Address	Dates of employment	Gross monthly pay
N/A			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ 368

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
Citibank	savings	\$100	\$
Citibank	checking	\$10	\$
		\$	\$

If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home	Other real estate	Motor vehicle #1
(Value) \$ 0	(Value) \$ 0	(Value) \$ 0
		Make and year:
		Model:
		Registration #:

Motor vehicle #2	Other assets	Other assets
(Value) \$ 0	(Value) \$ 900	(Value) \$ 0
Make and year:		
Model:		
Registration #:		

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
None	\$0	\$N/A
	\$	\$
	\$	\$
	\$	\$

7. State the persons who rely on you or your spouse for support.

Name [or, if a minor (i.e., underage), initials only]	Relationship	Age
Mrs. Saowalee Chanyu	former spouse	50

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or home-mortgage payment (including lot rented for mobile home)	\$800	\$N/A
Are real estate taxes included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$100	\$N/A
Home maintenance (repairs and upkeep)	\$0	\$N/A
Food	\$700	\$N/A
Clothing	\$100	\$N/A
Laundry and dry-cleaning	\$50	\$N/A
Medical and dental expenses	\$150	\$N/A

Transportation (not including motor vehicle payments)	\$ 300	\$ N/A
Recreation, entertainment, newspapers, magazines, etc.	\$200	\$ N/A
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's:	\$ 0	\$ N/A
Life:	\$ 0	\$ N/A
Health:	\$ 0	\$ N/A
Motor vehicle:	\$ 0	\$ N/A
Other:	\$ 0	\$ N/A
Taxes (not deducted from wages or included in mortgage payments) (specify):	\$ 0	\$ N/A
Installment payments		
Motor Vehicle:	\$0	\$N/A
Credit card (name):	\$0	\$N/A
Department store (name):	\$0	\$N/A
Other:	\$0	\$N/A
Alimony, maintenance, and support paid to others	\$0	\$N/A
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ 0	\$ N/A
Other (specify): charity & Church	\$ 100	\$ N/A
Total monthly expenses:	\$ 2500	\$ 0

9. *Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?*

☐ Yes

☒ No

If yes, describe on an attached sheet.

10. *Have you spent — or will you be spending — any money for expenses or attorney fees in connection with this lawsuit?* ☒ Yes ☐ No

If yes, how much? \$ 160000+ _____

11. *Provide any other information that will help explain why you cannot pay the docket fees for your appeal.*

Will be representing myself pro se in the appeal. Thank you.

12. *Identify the city and state of your legal residence.*

City New York State NY

Your daytime phone number: 929-262-9601

Your age: 58 Your years of schooling: 19

Last four digits of your social-security number: 0803